

PROPERTY TAX CASE STUDY YESTERDAY'S NEWS

New Brunswick Publishing's Challenge

N.B. Publishing's operations in Saint John were located in a multi-storey building, specially constructed in 1963 to house their huge printing press. On November 11th 1997 the newspaper made public its decision to centralise its printing in Moncton, early in 1998. The newspaper was still in operation in the building on January 1st 1998, the "base date" for the 1998 assessment year so the provincial assessment authority, Service New Brunswick, ignored the pending move and assessed the building as though it was not going to take place. They refused to re-consider their decision, insisting that they were obliged to assess the building in its existing physical state and use on the base date. New Brunswick Publishing turned to Turner Drake for help.

Turner Drake's Approach

The only case law precedent for assessing special purpose property subject to an impending closure of its primary use, was not helpful. Turner Drake therefore opened negotiations with Service New Brunswick (SNB) and attempted to persuade them of the illogicality of their position. They were able to achieve a reduction in the assessment but of insufficient magnitude: SNB proved obdurate on the impact of the printing press closure so Turner Drake filed an appeal to the New Brunswick Assessment and Planning Appeal Board. They then drew on the resources of their Lasercad™ Space Measurement Division to prepare plans and a description of the property. These were then embodied in a comprehensive "court ready" report which demonstrated beyond doubt that the building existed primarily to house the three storey printing press ... and that the latter could not be removed without demolishing one wall of the building or dismantling the press. Both options were deemed uneconomic. Turner Drake researched case law, newspaper archives and the local library. They differentiated this case by establishing that the decision to move the printing to Moncton was *public knowledge prior to the assessment base date*. This was a critical distinction. In other, similar cases, management had made their decision to terminate the use prior to the assessment base date but had not made their intention public until after the base date. Turner Drake gave 8 hours of testimony, and provided extensive expert assistance to N.B. Publishing's legal counsel, over the three week hearing.

Winning Results

The New Brunswick Assessment and Planning Appeal Board heard the case, and further reduced the Realty Assessment, thus yielding total tax savings of \$41,000/annum. The case establishes a clear precedent that circumstances known before the base date have to be reflected in the assessed value, so long as they were public knowledge.

